IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7962 OF 2005

WITH

CRIMINAL APPLICATION NO.8008 OF 2005

Sunil Anthony .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Shirish Gupte, Senior Advocate with Subodh Desai for applicant
Mr.S.S.Pednekar, A.P.P. (Appln.8008/2005)
Mr.S.S.Tatkare, A.P.P. (Appln.7962/05)

CORAM : S.C.DHARMADHIKARI, J.

DATE : 16th December 2005.

P.C.

. Applicant being the same and only

C.R.number diferring, these applications can be disposed of by a common order.

2. Contention of Mr.Gupte, learned Senior Counsel is that applicant is a builder by profession and had constructed a building. In the said building, flats were put up for sale. Co-accused have purchased these flats by obtaining loans from various banks. Default in payment of said loan was committed by these flat purchasers. As far as present applicant is concerned, he has neither obtained loan nor has he been shown as a guarantor. All that is alleged in the F.I.R. which is filed on behalf of concerned officer of the bank is that amounts came to be utilised by the applicant and partial payment of the loans disbursed to the flat purchasers came to be made by him. The transaction is of the year 2002 and the F.I.R. has been filed in both cases in 2005. Banks have already adopted civil proceedings.

3. Adjournment was sought by A.P.P. on the earlier occasion and request being acceded to, these matters were placed today. Both Mr.Tatkare and Mr.Pednekar state that concerned I.O. has not attended the Court and they have no instructions.

4. Facts set out in the application remain uncontroverted. That apart, I am satisfied from a perusal of the F.I.R. in both cases that the banks concerned have advanced loans to the flat purchasers, whose names are set out in the complaint. Instalments were paid from September 2002 till June 2004. Thereafter, defaults were committed. Bank has resorted to the provisions of Securitisation Act. All that has been alleged against applicant- builder is that there is collusion between the flat purchasers and him. As far as tampering of record of Registrar’s office and the allegations are that the flat

purchasers were not traceable, the flats constitute security of the bank concerned. Once the flat purchaseers who are arrayed as accused have been enlarged on bail, applicant who has been detained from 21st November 2005 need not be detained further. Nature of transaction and the period during which the amounts were advanced and the default in repayment thereof, prima facie, does not require any further detention. More so, when all documents appear to be in the custody of the concerned banks and they have also adopted proceedings under Securitisation Act. Hence, following order:-

i) Applicant shall be released on bail in connection with C.R.Nos.1054 of 2005 and C.R.No.832 of 2005 registered with Swargate Police Station in the sum of Rs.25,000/- in each C.R. and one or two sureties in the like amount till charge sheet is filed.

ii) Applicant shall report to Swargate Police Station twice a week on every Thursday and Monday between 5.00 p.m. to 7.00 p.m.

iii) Applicant shall furnish his passport to the I.O. in case he possesses the same, before his release.

iv) Applicant shall not directly or indirectly make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Applications disposed of.

viii) Parties to act upon authenticated copy of this order.

(S.C.DHARMADHIKARI, J)